IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 2994 of 2004

Between:

T. Ramamurthy, s/o late Sri T. Jagannatham,
Marketing (Retd. Under VRS), Nizam Sugars Ltd, R/o Hyderabad.

..... PETITIONER

AND

The Nizam Sugars Ltd (Govt. Company of State of A.P.),
Rep. by its Managing Director, Fateh Maidan Road, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus by declaring the action of the respondent in not settling and paying the VRS benefits to the petitioner having ordered and accepted the application for Voluntary Retirement as Wholly illegal, arbitrary, unconstitutional and without jurisdiction and consequently direct the respondent to settle and pay without any further delay the VRS benefits along with interest at the rate of 18% per annum to be calculated on an amount of about Rs. 10 lakhs with effect from 31-10-2002 on which date the petitioner was allowed to retire from service under the Voluntary Retirement Scheme by fixing a specific time limit for release of the said payments in the interest of justice

Counsel for the Petitioner: MR.PRATAP NARAYAN SANGHI

Counsel for the Respondent: THE ADVOCATE GENERAL

The Court made the following:

O R D E R:

The petitioner seeks to issue Writ of Mandamus declaring the action of the respondent- Nizam Sugars Limited in not settling and paying the Voluntary Retirement Scheme (for short "VRS") benefits to him having accepted his application for voluntary retirement as illegal and to direct the respondent to settle and pay the VRS benefits.

2 . The petitioner was initially appointed as General Manager (Marketing) on 29.03.1990 in the respondent and later he was promoted as Senior Grade General Manager in 1996. The respondent company vide its notice dated 12.09.2002 informed its employees that as per G.O.Ms.No.14 of Public Enterprises (II) Department dated 01.05.2002 it is open for its employees to choose employment under new management or to avail the VRS straightaway since no further employment for employees working in the headquarters of the respondent is required. It is also stated that the eligibility for the voluntary retirement under the VRS scheme is that no disciplinary cases are pending against the employees. However, their VRS benefits and the quantum thereof will be considered based on the outcome of disciplinary proceedings.

3 . Pursuant to the said scheme of the VRS, the petitioner filed his application on 27.09.2002. The said application of the petitioner was accepted by the respondent vide proceedings dated 31.10.2002 and the petitioner was relieved from the services from the respondent company. But with regard to the settlement of the amounts as per the VRS Scheme, 2002 and other rules of the company, a condition which was imposed in the said office order dated 31.10.2002 is as follows:

“i] Production of No Dues Certificate.

ii] ……..

iii] Outcome of any disciplinary proceedings such as Criminal Investigation/Domestic Enquiries pending against Him/Her.”

4. Admittedly, the petitioner has not challenged the conditions imposed for the settlement of his VRS benefits, while accepting his application under VRS, 2002. Without questioning the said conditions imposed with regard to the settlement of the amounts under the VRS, the petitioner has advanced arguments that this Court allowed WP.Nos.5153 of 2003 and batch dated 13.04.2003, directing the respondent to extend the benefits under VRS to them, wherever disciplinary proceedings are not pending and wherever disciplinary proceedings were pending, direction was issued to complete the same within six months. The learned counsel for the petitioner submitted that there are no disciplinary proceedings pending, but only a case, referred by the respondent to C.B.I. is pending. He has also relied on the judgment of the Supreme Court in ***STATE BANK OF INDIA*** v. ***A.N.GUPTA*** and in the case of ***BHAGIRATHI JEVA*** v. ***BOARD OF DIRECTORS, O.S.F.C.*** stating that imposing such conditions while accepting his application under VRS for the settlement of the amounts is illegal and arbitrary.

5. I am of the opinion that without questioning the said conditions imposed in the said order, it is not open for the petitioner to advance the arguments that the said conditions imposed in the order shall be ignored.

6. On the other hand, the learned Advocate General submits that the writ petition is abuse of process of law, as the petitioner suppressed the fact of filing earlier writ petition i.e., W.P.No.1034 of 2003, in which one of the prayer was, to direct the respondent herein to release his benefits under VRS Scheme i.e., prayer (b) in the said Writ Petition is to direct this respondent and the General Manager of Nizam Sugars to release his legitimate benefits consequent to VRS. The said Writ Petition

was filed to set aside the reference made by the respondent and General Manager to the ACB against the petitioner, as illegal and other prayer is to direct the Inspector of ACB to keep the notice dated 16.12.2002 in abeyance. The said Writ Petition was dismissed by the learned Single Judge of this Court on 23.01.2003, as the said Writ Petition is devoid of any merits. However, the petitioner was directed to submit his explanation to the show cause notice issued by the Inspector of ACB, within a period of one week and on submitting such explanation, the Inspector, ACB was directed to consider the same within a period of one month thereafter. Nowhere the petitioner has mentioned about filing of the said Writ Petition in W.P.No.1034 of 2002 in his Writ Petition and stated that he has not filed any other Writ Petition before this Court claiming the similar relief as claimed in the Writ Petition. Hence, I am of the view that the petitioner has suppressed the fact of filing the earlier W.P.No.1034 of 2003 claiming the relief of release of VRS benefits, which was dismissed by this Court and against which no appeal has been filed and therefore, this Writ Petition is not maintainable.

7. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

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12-08-2004.

Issue C.C. in three (3) days.

gs/bss

To

1. The Managing Director, Nizam Sugars Ltd (Govt. Company of State

of A.P.), Fateh Maidan Road, Hyderabad.

2. 2CCs to the Advocate General, High Court Premises, Hyderabad(OUT)

3. 2CD copies